

MAY 29 1985

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Before the
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C.

- - - - -	X	
	X	
In the Matter of:	X	
	X	Docket No. CRT 84-1-83CD
1983 CABLE ROYALTY	X	
DISTRIBUTION PROCEEDINGS	X	
- - - - -	X	

MUSIC CLAIMANTS' OBJECTION TO AND MOTION
TO STRIKE PORTIONS OF NATIONAL
PUBLIC RADIO'S DIRECT CASE

Pursuant to the Copyright Royalty Tribunal's notice of adoption of procedures in this matter, 50 Fed. Reg. 13845, 13846 (April 8, 1985), the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc. (collectively, "Music Claimants") hereby object to and move to strike that portion of the direct case of National Public Radio ("NPR") found at page 12 of the testimony of Dean Boal, which consists of the entire paragraph under the heading "Copyrighted Music," as follows:

The objectionable testimony consists of Mr. Boal's "estimates" of those portions of NPR-produced programs (including so-called "non-music programming") and NPR member stations' air time which are devoted to copyrighted as distinguished from public domain music.

The Music Claimants requested supporting documentation for those "estimates" from NPR. NPR replied that: "There is no responsive documentation."

The determination of whether particular musical works are protected by copyright or are in the public domain requires considerable expert knowledge, including legal expertise, as well as reference to documents filed with the United States Copyright Office. No such expertise has been claimed for Mr. Boal; nor has he been qualified as an expert for such purposes; nor has any reference to Copyright Office documentation been made; nor are there any documents which would support a non-expert "estimate."

In such circumstances, the proffered testimony is incompetent, and should be stricken from the record.

The Music Claimants reserve the right to interpose a similar objection and motion to strike to other portions of Mr. Boal's testimony for which underlying documentation has been requested, and for which NPR is not yet in a position to advise as to whether such documentation exists.

Respectfully submitted,

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Dated: May 29, 1985

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of May, 1985, caused a copy of the foregoing Music Claimants' Objection to and Motion to Strike Portions of National Public Radio's Direct Case to be served via first-class mail, postage prepaid, on the following:

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A handwritten signature in cursive script, reading "Lisa Holland Powell". The signature is written in dark ink and is positioned above the printed name.

Lisa Holland Powell